

## REMARKS

The last Office Action of January 25, 2002 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1 to 21 are pending in the application.

It is noted that claims 1 to 8 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4, 6-9, 11-16 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Russian Pat. No. 372126(hereinafter "Mazurenko").

It is noted with appreciation that claims 17-20 are allowed.

It is also noted with appreciation that claim 5 is indicated allowable if rewritten in independent form to overcome the rejection under 35 U.S.C. §112 and to include all of the limitations of the base claim and any intervening claims, and that claim 10 is indicated allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. However, applicant wishes to defer amendments to these dependent claims in order to rewrite them in independent form in view of the arguments presented below regarding amended claim 1.

Applicant wished further to make of record a telephone interview between applicant's representative and the Examiner on February 25, 2002, which was conducted in view of the ambiguity as to the reference of claims under the heading

"Deposition of Claims" on the cover page and in the body of the instant Office Action. The status of the allowed and rejected claims is now correctly reflected as stated above.

**REJECTION OF CLAIMS 1-8 UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

Applicant has reworded claims 1 and 2 to address the indefiniteness objection by the Examiner, notwithstanding applicant's belief that claims 1 and 2 as originally filed in this context were clear. Accordingly, applicant asserts that these changes are cosmetic in nature and thus do not narrow the claim element to trigger prosecution history estoppel within the meaning of *Festo*-decision. *Festo Corp. v. Shoketsu Kinsoku Kogyo Kabushiki Co.*, 56 USPQ2d 1865 (Fed. Cir. Nov. 29, 2000)(en banc).

Withdrawal of the rejection of the claims 1-8 under 35 U.S.C. §112, second paragraph is thus respectfully requested.

**REJECTION OF CLAIMS 1-4, 6-9, 11-16 AND 21 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY MAZURENKO**

The rejection under 35 U.S.C. 102(b) is respectfully traversed.

The present invention is directed to a formed body which is so configured that at least some of sequentially disposed layers are securely connected **to one another** through a positive or form-fitting engagement. The formed body according

to the present invention is thus based on a construction in which the layers themselves are interconnected to one another in a positive manner.

The Mazurenko reference refers to a board pallet which includes two distinct components, namely the base made of two superimposed sheets of corrugated board, and the supports, whereby the lower one of the superimposed sheets has stiffening ribs for engagement in splines of the supports. Assuming that the individual layers are not glued to one another, the formed body of Mazurenko is able to keep its integrity only when engaging the stiffening ribs in the splines. There is **no** form-fitting connection between the layers of the formed body. Rather, it is safe to assume that the individual layers of Mazurenko are glued together, as typically taught by the prior art. Thus, Mazurenko fails to disclose the form-fitting or positive connection between the layers.

For the reasons set forth above, it is applicant's contention that Mazurenko neither teaches nor suggests the features of the present invention, as recited in claims 1 and 21.

As for the rejection of the retained dependent claims, these claims depend on claim 1, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Withdrawal of the rejection of claims 1-4, 6-9, 11-19 and 21 under 35 U.S.C. §102(b) is thus respectfully requested.

## CLARIFICATION AMENDMENT

Claim 10 has been amended in the manner as suggested by the Examiner. This amendment is cosmetic in nature, not relating to patentability, and thus does not narrow the claim element to trigger prosecution history estoppel within the meaning of *Festo*-decision.

## CONCLUSION

Applicant believes that when the Examiner reconsiders the claims in the light of the above comments, he will agree that the invention is in no way properly met or anticipated or even suggested by Mazurenko.

Mazurenko merely discloses the securement of a formed body (base 1) to a support plate and fails to disclose the form-fitting or positive connection between the layers.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner

feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

The Commissioner is hereby authorized to charge fees which may be required, or credit any overpayment to Deposit Account No. 06-0502.

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE:**

**IN THE CLAIMS:**

**Amend** the following claims:

1. (Amended) A tubular formed body defining a longitudinal axis and ~~made of~~  
including several layers in end-to-end disposition which are made of rolled-up  
lined corrugated cardboard having flutes extending in a direction of the  
longitudinal axis, wherein at least some of ~~adjoining~~ sequentially disposed  
~~one of the~~ layers are securely connected to one another through a positive  
engagement.
2. (Amended) The formed body of claim 1 wherein the positive engagement of  
at least some of the ~~adjoining one of the~~ sequentially disposed layers is  
implemented through interconnection of complementary tongues and  
openings.
10. (Amended) The formed body of claim 9 wherein the connection means  
includes a tongue ~~in~~ formed from at least one of the layers and a  
complementary opening in another one of the layers.